



INSIDE: FILM FEST GUIDE • RUSH • MICHAEL MOORE & FESTIVAL MUSIC

N O R T H E R N

FREE **express** **WEEKLY** **SS**®

www.northernexpress.com
www.expressdog.com



The Unlikely Reporter

Balancing jobs as a construction worker and a crusading reporter, Eric VanDussen shines a light on courts & cops

-- Story by Anne Stanton on page 15

NORTHERN MICHIGAN'S WEEKLY • July 26 - August 1, 2010 Vol. 20 No. 30

its protection to extend to patients who may have a medical need for more marijuana or who may not be registered. We intended for them to be protected from being convicted, but not from being arrested, she said”

The purpose of the affirmative defense, she wrote, was to “prevent a person with a serious illness and a doctor’s recommendation from being incarcerated for using their medicine, which would be a waste of taxpayer money and cause unnecessary suffering.”

Either way the Court of Appeals decides, it will very likely go to the state Supreme Court for a final ruling, Mullen said.

“We are obviously awaiting the court of appeals decision because it may very well decide Archie’s case,” Hickman said.

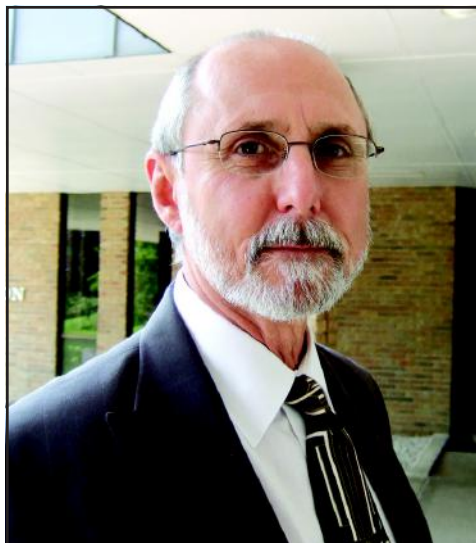
WHEN A PLANT IS A CUTTING

An important part of Kiel’s case involved a Michigan State University botanist’s testimony that a “plant” has actual roots. Otherwise, it’s considered a cutting. Kiel claimed that 21 of the 70 plants were cuttings.

This ruling caused the jury to find him guilty of less than 20 plants, but it will very likely result in the destruction of plants in future medical marijuana arrests in order to ascertain whether a plant has roots, Donnelly said.

“They’ll have to pull up all the guy’s plants, thanks to Archie, to make sure we don’t end up with a claim they aren’t rooted. It’s really sad. What am I going to say to the next Archie? What a shame,” Donnelly said.

Donnelly applauded the guilty verdict, saying it was supported by the evidence. “I am not unsympathetic to the cause, but the way it’s playing out, it’s a shabby business. It’s just too bad. They’re doing a disservice to people who



Kalkaska Prosecutor Brian Donnelly said the evidence supported the jury’s decision.

could benefit by this law.”

Bob Heflin, who leads meetings for the Traverse City Compassion club, said taxpayers are the real losers in this case. Tens of thousands were spent, including the helicopter fly-over, court staff, police salaries, and ultimately imprisonment of Kiel for up to eight years at \$35,000 or more per year.

“For what? So we can throw a guy in prison for less than 20 cannabis plants which no one denies were being grown for medical marijuana patients? No wonder taxpayers are outraged and disgusted. Michigan voters should remember this case when they vote for judges and prosecutors this fall,” Heflin said.

AN UNLIKELY REPORTER

Roughed up by a cop 18 years ago, Eric VanDussen has never forgotten

By Anne Stanton

If you missed watching Archie Kiel’s marijuana trial reported this week in the Express, you can still turn to Channel 97 and catch it in its entirety on Up North TV. Same with Joni Holbrook’s admission to second-degree murder earlier this month when she confessed to “snapping” after years of her husband’s alleged emotional, sexual, and physical abuse.

Eric VanDussen, 35, is behind the video camera at these trials, and he does it for free. He also reports for the Benzie County Record-Patriot and WIAA, the public radio station in Interlochen that actually pays pretty well.

Before VanDussen became a full-time freelance reporter in January, he worked as a construction worker, trying to fit in reporting on the side. He’s not a trained journalist, but he certainly knows the law and has arrived at his freelance career with a passion for fairness. His presence in the courtroom and government meetings has changed the way Benzie County does business because they know someone is watching them, said Sheriff Rory Heckman.

“It makes some of the people who run the departments a little scared, a little leery, and that’s good. We could do with more Eric VanDussens. Everyone has a right to question their government, and they damn well should, along with the decisions made. Eric asks questions and I embrace that,” Heckman said.

theNEWS

THE FIGHT

VanDussen said his fire to write and report comes from a head-smashing incident he endured at the hands of a Benzie County deputy. The date he doesn’t even have to think about—January 25, 1993.

He was a troubled 17-year-old teen at the time with a drinking problem and legally emancipated from his family. Just before midnight, on January 23, he walked about a mile through the cold air to play cards at a party in Benzonia. He arrived about an hour after a group of five guys had beat up his friend, who escaped out the window.

To make a long story short, two of the teens came back to finish the job. The kid saw them at the door and escaped, making VanDussen the new bulls-eye. The fight was fierce and quick.

“They smashed beer bottles over my head, took chairs, smashed them on me, broke the chairs, took the broken pieces and started beating me with them, and this is in the police report.

“I carried a knife all the time with me; it was kind of stupid,” he continued. “I acknowledge that now, but I thought it was cool, and I had taken it off a belt clip, and it was laying on a table right next to me, when

CONTINUED ON PAGE 16

GOOD FOOD FOR BAD GUYS {AND GOOD GUYS TOO}

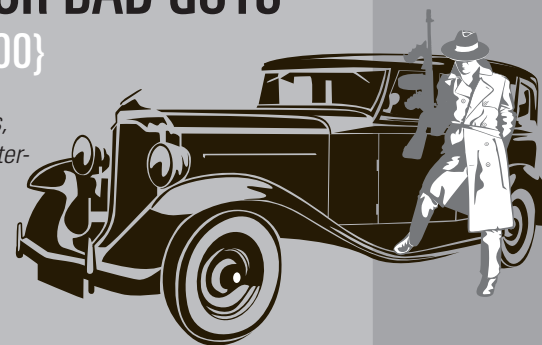
Enjoy steaks, seafood, burgers, salads and more in this gangster-style speakeasy setting!

The Boss’s favorites are a must!

Open daily, 11am-2am
Weekend entertainment

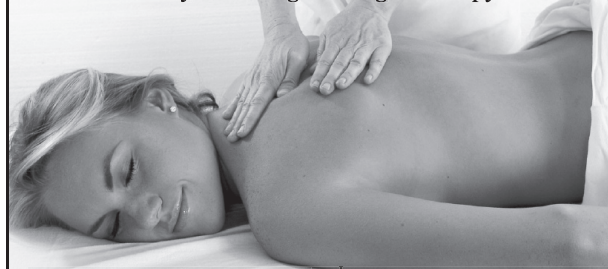
SOUTHSIDE
HIDEOUT

231-269-3738 SOUTHIDE-HIDEOUT.COM
620 WEXFORD AVENUE WEST, BUCKLEY, MI 49620



GET RELIEF FROM CHRONIC PAIN & STRESS

Traverse City’s Leading Massage Therapy Center



20%
Off First Visit

Exp 8/31/2010. Cannot be combined with other offers or be used for the purchase of gift certificates.

\$10
Off Any Massage

Exp 8/31/2010. Cannot be combined with other offers or be used for purchase of gift certificates. 1 per client.



Living Light
MASSAGE & WELLNESS CENTER

Downtown, Traverse City
134 W. State Street
Open 7 days
livinglightmassage.com

231.995.9697



RAISING A CUP OF
FAIR TRADE, ORGANIC
COFFEE IN HONOR OF
**INDEPENDENT
FILM!**



Higher Grounds is Traverse City’s
Fair Trade Organic Coffee Roaster
806 Red Dr. Suite 150, T.C., MI 231.922.9009
highergroundstrading.com

Grand Traverse Hypnotherapy & Counseling

STOP SMOKING
the easy way
with hypnosis

www.grandtraversehypnotherapy.blogspot.com

**Amelia
Hasenohrl**
LPC, CHt.

Traverse City, MI
231.590.7759



Happy Feet

has moved to a new location!
Now you can bring your feet to
620 2nd St. - Traverse City
and make them happy!
Foot massage - \$25/hr.
Body massage - \$40/hr.
Susan Zhou Andersen
Licensed ~ Traditional Chinese Foot Massage
(231) 360-4626

The Twisted Fish Gallery Presents:

“A Visual Feast” by MARGARET & WILLIAM WHITE

..... Exhibit runs through August 8

10443 S. Bayshore Dr. Elk Rapids at Rt. 31

231.264.0123

twistedfishart.com

Twisted Fish Gallery



Tampico



FOSILART
ANCIENT WALRUS &
WOOLY MAMMOTH
IVORY & SILVER
BY EDWARD L. DUNK

112 NORTH MAIN STREET LELAND, MI 49654 • (231) 256-7747

GINGER

Modern Asian Cuisine
Downtown Traverse City

| Lunch | Dinner |

231.944.1733
eatatginger.com

asian chicken salad...for lunch

asian chicken salad...for lunch

patagonia

It's like an evolution.



\$75
Naked Maui
Styles for Men & Women



\$75
Maui Air - Mens

But for your feet.

Pla.mon.don Shoes

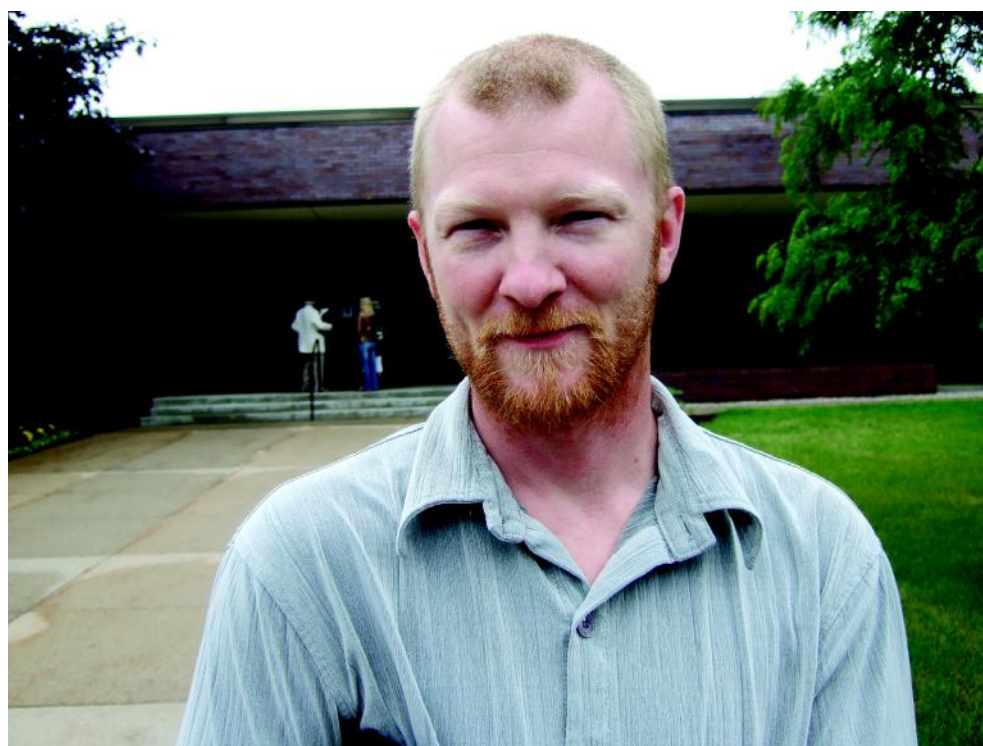
Mon-Fri: 9-8

Sat: 9-5:30 Sun: 12-4

(231) 947 5091

144 East Front Street - TC

www.plamondonshoes.com



Eric VanDussen shines a light on courts and cops. You can watch his videos on Channel 97, Up North TV, or on www.upnorthmedia.org.

they busted in the door. I grabbed it off the table, and pulled it out when I was backed in the corner. The one kid jumped on me, and that's when I stuck him (near his throat and in the chest)... He was injured very badly. I freaked out and took off," he said.

He consulted with the mother of his temporary family and decided to turn himself into the sheriff's department and tell them what happened. Within 12 hours, the prosecutor exonerated him and refused to press charges, although he did file felonious assault charges against the two teens, who were later convicted. The boy who was stabbed received stitches and was released the same day from Paul Oliver Memorial Hospital.

HIGH SCHOOL INCIDENT

VanDussen's troubles weren't over, though. When he went to school, the high school principal told him he didn't want him at a basketball game without supervision. VanDussen, bruised and battered from the night before, explained that the prosecutor had exonerated him and that supervision wasn't required at athletic events. It ended in a confrontation and VanDussen using the f-word. A Benzie County Sheriff's deputy arrived and asked him to step outside. VanDussen said he wouldn't leave unless arrested, and again told this authority figure to f-off. At that point the deputy allegedly slammed VanDussen against the wall and smashed his face into two sets of swinging doors. He then allegedly grabbed VanDussen by his hair and threw him into his police vehicle.

VanDussen was found guilty of attempted resisting and obstructing arrest and disorderly conduct, a misdemeanor. He was found not guilty for trespassing.

The conviction was overturned a year later by 19th Circuit Court James Batzer who wrote in his opinion that VanDussen had not disturbed the peace and did not require supervision at a sports event. "Since no violation of law had occurred, defendant should not have been arrested," he wrote.

Swearing at school violates school rules, but is not a criminal offense. Since the arrest was unlawful, the defendant was "justified in using such reasonable force as is necessary to prevent or to resist the arrest," Batzer wrote, citing the Michigan case, People v. Gray.

NEVER FORGOT

To this day, VanDussen, who was expelled from high school (he was a junior), wishes he would have sued the sheriff's department. Instead, he went onto earn a GED and began working construction jobs. But he never forgot.

Fast forward six years to 1999. Russ Townsend was at home when his wife called 9-1-1 to complain about a drunk and obnoxious man whom the couple was trying to kick out of the house. The only problem was that the responding five or six deputies assumed she was calling about her husband. When they went to arrest Townsend, he told the deputies to "f-off."

"They beat Townsend up pretty bad, just like they did me," VanDussen said. Townsend sued the department in federal court. VanDussen got wind of the lawsuit and offered to help Bloomfield Hills attorney, John Peters, research the case. His assignment: to prove a pattern of police misconduct and to gather witnesses for the trial.

That's when VanDussen became intimately acquainted with the state and federal Freedom of Information (FOI) laws that allow citizens to obtain information from any public body, which must hand over the requested documents, unless it's specifically exempted in the law. VanDussen requested from the sheriff's department all citizen complaints, depositions, and the amount of settlements paid out since 1980—all fair game under FOI.

Bob Blank, the sheriff at the time, and the county Board of Commissioners (which had records of the settlements) refused to fulfill the FOI requests, so VanDussen sued them both. "I didn't know what I was doing, so I winged it. I looked at other people's lawsuits and modeled mine after theirs. I found there was no way they could withhold it from me."

CLOSED SESSIONS

VanDussen served as his own attorney at the beginning, but two attorneys eventually took it over, their fees contingent on VanDussen winning his case.

Lawsuits mounted as time went along. The county board of commissioners had the habit of going into closed session to discuss lawsuits filed against them, including the FOI suits, yet without stating a justifiable reason to do so, as required by the Open Meetings Act.

"They did it ten different times, and the only way to get minutes of a closed session is to sue, and so I did. This was around 2004, 2005," VanDussen said.

Again, he won. The judge ordered the county to produce the minutes.

The county's legal fees, court costs, and contempt sanctions related to VanDussen's lawsuits totaled more than \$240,000. They were also ordered to pay about \$50,000 to compensate VanDussen for his attorney fees. VanDussen himself only received \$1,500,

the maximum amount allowed under the law (\$500 per lawsuit). Batzer wrote in his decision that Blank's refusal to comply with the FOIA requests were "arbitrary and capricious." In 2006, Batzer held Benzie County in contempt for not providing the requested documents and imposed a \$10,000 sanction fee.

\$2 MILLION SPENT

So once VanDussen finally did receive the information he was looking for, what did he find? The county taxpayers since 1980 had unknowingly dished out more than \$2 million for court and legal fees, and settlements.

And Townsend's case? VanDussen was one of the eight witnesses who testified about their experiences with the county deputies. Townsend ultimately settled with the county for \$60,000. VanDussen received nothing except a little satisfaction.

Benzie County had it rough for a while. The Traverse City Record-Eagle was also going after the department over the FOI issue and won a lawsuit. Eventually, Sheriff Blank was punished by voters who rejected two millage requests, forcing the department to make drastic cuts. Blank is now out and Rory Heckman took office in 2008.

Heckman has nothing but praise for VanDussen, who said he did the right thing by going through the court system to address his grievances.

"Eric spent a lot of time learning, a lot of time schooling himself, asking questions; he's very intuitive," he said. "He's even argued his cases in front of a law judge and won. Those early days were challenging. But Eric and I get along very well because I understand the Freedom of Information Act. There's no argument here. What do you need? I'll give it to you. I do that with all requests. The law is black and white, there are not a lot of gray areas, and we rarely have any differences."

VanDussen also learned the criminal system, he said.

"I told him, 'You should have gone to law school.' He writes well. He's logical in his arguments. The other departments, when they go against him, they soon find out, he's right. Some actually fear him, to be honest with you. That's a good thing. Here's why. Government has to be transparent at all levels, and, as soon as they try secret talks, double-dipping, that's bad; that's not what people want in their government, even on a local level. No backroom dealing—and that's what Eric has done for Benzie County."

DATELINE'S FOX HUNT

As his credibility has grown as a journalist, VanDussen began reporting for newspaper and public radio, as well as providing news tips to the Traverse City Record-Eagle and TV 7&4. Dateline, the national TV show, talked to him about the

Holbrook case.

"We were talking about the case, and they asked me, 'How good looking is she? What about the attorney? The prosecutor? Then they looked at my videotapes on Up North TV. They thought her attorney, Jesse Williams, wasn't bad, but they decided she didn't fit the bill," he said.

Despite Dateline's abrupt lack of interest, VanDussen's taping provided viewers a chance at unsanitized glimpses into her life that have gone unreported. Forensics pathologist Stephen Cohle testified about the autopsy and determined that Paul Holbrook had an old head injury in his frontal lobe that could have caused behavioral problems. Second, he showed evidence of several minor heart attacks. And third, he had rings on both his nipples.

The defense attorney also asked him repeatedly about whether Holbrook's penis had been pierced for a ring (an indication of sexual kinks) to which Cohle responded, he didn't see any hole, although he wasn't looking.

"Eric deserves some real credit for contributing to community access TV, and calling to our attention the raw material in the pretrial, difficult adult stuff," said Joe VanderMuellen, executive director of LIAA and Up North TV. "He suggested we review it with our advisory committee, and we felt it showed foresight and concern for our community." The advisory committee decided to allow the video to run after 8 p.m. in order to reduce the risk of children watching it unsupervised. "We chose a very conservative path in terms of showing it."

PUBLIC PERCEPTION

VanDussen feels that he's been vindicated over the years by public officials, as well as those in the media. As if to prove it, VanDussen, who was sitting in the county commissioner's meeting room for this interview, said an enthusiastic hello to a Mark Roper. He introduced him as a county commissioner he once sued. Roper gave a friendly hello back.

"I think public perception of me has definitely changed, even if people may still not appreciate everything that I do," VanDussen said. "A lot of people were irritated that I cost the county a boatload of money. They thought I was after the money; it took some time for them to realize that I wasn't getting any. The money that was spent was the county trying to defend themselves against my lawsuits to get public records that I had every right to obtain. Now my relationship with public officials and law enforcement is completely different than it was 10 or 11 years ago."

"I am having the most fun I've ever had in my life, even though I'm dirt poor. I wake up in the morning and I don't feel like my body is going to fall apart because that's what construction work was doing to me."

Pulled Pork, Chicken, Turkey Legs, Beef Brisket from our Smoker!

VOTED BEST
Lunch • Salads
Burgers
~Northern Express

Dinghy's

RESTAURANT & BAR

RIBS

STEAKS

SANDWICHES

SALADS

— OPEN DAILY —

415 Main Street
Frankfort

231.352.4702

dinghysrestaurant.com

KAYAKS

..... starting at just \$299

DEMO & BLEMISH SALE going on NOW!


Hurry in for best selection!



McLain
cycle & fitness

231-941-8855
2786 Garfield Rd N
TRAVERSE CITY

BALLOON RIDES



GIFT CERTIFICATES AVAILABLE FOR ALL OCCASSIONS

BEAUTIFUL BALLOON FLIGHTS OVER GRAND TRAVERSE BAY AREA SINCE 1987

1.231.947.RIDE (7433)
www.grandtraverseballoons.com
ANDERSON AERIAL PHOTOGRAPHY

Cherryland

Antique Mall & Consignment Center

"NOW OPEN"

.....

A New Antique Mall In Traverse City

88 booths, 72 showcases, and a large Consignment Showroom

1719-1721 South Garfield
close to the intersection of Garfield & South Airport


*** Mon-Sat 10-6**
*** Sunday Noon-5**

231.944.1980
www.cherrylandantiquemall.com

Location: ☆ ☆
In the heart of shopping, entertainment, & restaurant's on Traverse City's SE side across the street from Cherryland Center

No Time to COOK?

Healthy Food For Busy People... Prepared For You In Your Home.



PERSONAL CHEF SERVICE

- Providing a complimentary in home consultation
- Custom menu planning shopping
- Meal preparation
- Kitchen clean up.

Come home to the aroma of delicious food, a clean kitchen & a refrigerator stocked with meals prepared just for you. Let me save you time & make your life a little easier!

Kathy Rymal
231-228-7056
whatsfordinnerinc.com



Have you been failing sobriety?

Tired of everyone telling you this is the way you have to be sober?

Discover your own path:

HOLISTIC • SELF-HELP • COGNITIVE • INDIGENOUS • FAITH BASED

Heal the Mind, the Body and the Spirit

- One on one counseling • Scenic private lake setting • Life Skill training prepares clients for long term success • One year after care

Insurance accepted - Financing available

Call: 1-877-824-4855
www.stopyouraddiction.com